

**MEETING
DATE:**

May 23, 2023

AGENDA ITEM: A**TO:**

BSCC Chair and Members

FROM:

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SUBJECT:

Continuation of Determination of Suitability - Los Angeles County Juvenile Halls – (Welf. & Inst. Code, § 209, subds. (a)(4) & (d).): **Requesting Approval**

- Barry J. Nidorf Juvenile Hall
- Central Juvenile Hall

Summary

This agenda item is a continuation of the matter presented to the Board at the April 13, 2023 meeting regarding the determination of suitability for the Los Angeles County Central Juvenile Hall and Barry J. Nidorf Juvenile Hall. This item requests that the Board make a final determination of suitability within the meaning of Welfare and Institutions Code section 209, subdivisions (a)(4) and (d) and find both facilities unsuitable for the confinement of pre-adjudicated youth.

Background

The Board of State and Community Corrections (BSCC) establishes the minimum standards for juvenile halls, camps, and secure youth treatment facilities (SYTF) and conducts regular inspections of those facilities. (Welf. & Inst. Code, §§ 209, 210, 875, & 885.) Regulations setting forth these minimum standards can be found in Sections 1300-1511 of Title 15 of the California Code of Regulations.

Welfare and Institutions Code section 209, subdivision (d), provides:

Except as provided in subdivision (e), a juvenile hall, special purpose juvenile hall, law enforcement facility, or jail shall be unsuitable for the confinement of minors if it is not in compliance with one or more of the minimum standards for juvenile facilities adopted by the Board of State and Community Corrections under Section 210 or 210.2, and if, within 60 days of having received notice of noncompliance from the board or the judge of the juvenile court, the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail has failed to file an approved corrective action plan with the Board of State and Community Corrections to correct the condition or conditions of noncompliance of which it has been notified. The corrective action plan shall outline how the juvenile hall, special purpose juvenile hall, law enforcement facility, or jail plans to correct the issue of noncompliance and give a reasonable timeframe, not to exceed 90 days, for resolution, that the board shall either approve or deny. In the event the juvenile hall, special purpose juvenile

hall, law enforcement facility, or jail fails to meet its commitment to resolve noncompliance issues outlined in its corrective action plan, the board shall make a determination of suitability at its next scheduled meeting.

Summary of 2020 - 2022 Biennial Inspection

On January 13, 2023, following the inspection of Los Angeles County's juvenile facilities, the BSCC notified Los Angeles County's probation department of several items of noncompliance with the Board's regulations at the Barry J. Nidorf Juvenile Hall and Central Juvenile Halls. A copy of the final inspection report dated March 16, 2023, is in Attachment 5; at the time the final inspection report was issued, the facilities were out of compliance with the following regulations:

Barry J. Nidorf Juvenile Hall

1. § 1321. Staffing.
2. § 1325. Fire Safety Plan.
3. § 1327. Emergency Procedures.
4. § 1328. Safety Checks.
5. § 1354.5. Room Confinement.
6. § 1357. Use of Force.
7. § 1360. Searches.
8. § 1370. Education Program.
9. § 1371. Programs, Recreation, and Exercise.
10. § 1390. Discipline.
11. § 1230.2.10 Security glazing
12. § 1230.1.7 Single occupancy sleeping rooms
13. § 1230.2.6 Lighting
14. § 1230.1.5 Living unit.
15. § 1230.1.11 Physical activity and recreation areas

Central Juvenile Hall

1. § 1321. Staffing.
2. § 1328. Safety Checks.
3. § 1354.5. Room Confinement.
4. § 1357. Use of Force.
5. § 1358.5. Use of Restraint Devices for Movement and Transportation Within the Facility.
6. § 1360. Searches.
7. § 1370. Education Program.
8. § 1371. Programs, Recreation, and Exercise.
9. § 1374. Visiting.
10. § 1390. Discipline.
11. § 1230.2.10 Security glazing
12. § 1230.1.7 Single occupancy sleeping rooms
13. § 1230.2.6 Lighting
14. § 1230.1.5 Living unit.
15. § 1230.1.11 Physical activity and recreation areas

Pursuant to Welfare and Institutions Code section 209, the agency was required to submit a corrective action plan (CAP) to the BSCC within 60 days or by March 14, 2023.

On March 14, 2023, the BSCC received the agency's CAP (Attachment 4). A CAP must outline how the agency intends to correct the issues of noncompliance and how they will come into compliance within a reasonable timeframe, not to exceed 90 days or by June 12, 2023. (Welf. & Inst. Code, § 209, subd. (d).)

After review of the CAP, BSCC staff determined that it did not provide sufficient detail about the specific plans that would be relied upon to correct the items of noncompliance and did not provide a reasonable timeframe for resolution. Due to this lack of information, the CAP was not approved by BSCC staff. The Los Angeles County Probation Department was notified of this action on March 23, 2023 (Attachment 3). On March 27, 2023, the County was notified that the BSCC Board would make a determination of suitability for the Barry J. Nidorf and Central Juvenile Halls at the April 13, 2023, BSCC Board Meeting (Attachment 2). On April 3, 2023, the department submitted a supplemental CAP (SCAP) (Attachment 1).

At the April 13, 2023 BSCC Board Meeting, after hearing testimony from Los Angeles County Representatives, the Board moved to defer further action on the Los Angeles County Juvenile Halls to a future board meeting since the county had proactively moved to make improvements to both facilities, had filed a supplemental plan, and had hired new key personnel. This deferral would also allow Board staff to take additional time to evaluate whether the county has "fail[ed] to meet its commitment to resolve noncompliance issues outlined in the corrective action plan..." (Welf. & Inst. Code, § 209, subd. (d).) The Board did not approve either the CAP or SCAP.

From April 25 through April 28, 2023, BSCC staff were on-site at the Barry J. Nidorf and Central Juvenile Halls to review any progress in implementing the strategies outlined in the CAP¹ and to determine whether the county was meeting its commitment to resolve noncompliance. BSCC staff also conducted unannounced inspections to each of the facilities during the late-night shift between April 24 to April 25, 2023. BSCC staff's inspection focused on progress towards compliance with Title 15 regulations.

BSCC staff met with Directors at Barry J Nidorf Juvenile Hall and the Senior Director at Central Juvenile Hall, and it was immediately apparent that many of the activities outlined in the CAP and SCAP were not occurring as described. Neither the Senior Director at Central Juvenile Hall nor the Directors at Barry J Nidorf Juvenile Hall had seen a copy of the CAP or SCAP prior to BSCC staff's arrival. A copy of the CAP and SCAP were provided to the facility staff during our site visit. Based on further discussion, it was determined that some steps had been taken toward compliance at each facility, but there remains a disconnect between the CAP/SCAP and the facility "action plans" to attempt to come into compliance.

Section 1321, Staffing and Related Items of Noncompliance

As has been reported, the most serious items of noncompliance at the juvenile halls are directly linked to issues with staffing. Youth are regularly not being provided with required services because of insufficient numbers of staff on duty, and noncompliance with Section

¹ For example, the SCAP indicated that additional staff would be trained and redeployed into the halls by April 10, 2023.

1321, Staffing contributes to continued noncompliance with Section 1354.5, Room Confinement, Section 1357, Use of Force, Section 1360, Searches, Section 1370, Education, and Section 1371, Programs, Recreation and Exercise. Compliance with staffing will ultimately contribute towards compliance in these deficient areas.

BSCC staff discussed staffing issues with facility leadership and reviewed staffing documentation, including staffing schedules and assignments, from April 21 through April 26, 2023 for both facilities to verify evidence that the department is taking proactive steps toward fulfilling the corrective action outlined in the CAP/SCAP to bolster staffing levels in both facilities. One of the most prominent corrective actions outlined in the CAP/SCAP is the reassignment of 100 field staff, who the county had stated were to be deployed on April 10, 2023.

At this time, based on documentation provided by the county, staff could not verify that 100 deputy probation officers (DPO) have been reassigned to and working shifts at the facilities. Discussion with facility leadership indicated that, at best, 70 reassigned DPOs have completed training in anticipation of being assigned to the two facilities. However, facility leadership indicated while the DPOs show up for shift, facility leadership does not have the flexibility to deploy these staff to units that may need additional staffing the most. This limitation contributes to the inability to adequately staff the facility, provide coverage for special assignments, such as 1:1 supervision, transportation, and movement, and provide coverage for the regular callouts, sick leave, "work hardening" (light duty), and medical leave.

Evaluating the staffing needs across the facilities and deployments was difficult; BSCC staff were unable to identify minimum staffing for facilities and units to verify that posts were being filled based on the documentation, which included handwritten notes. What was clear from both review of documentation and discussions with facility leadership, however, was that staffing levels are not adequate to safely operate the facilities and provide consistent programs and services to the youth. There continue to be a significant number of callouts that require overtime, and we noted 34 staff who worked for 24 hours straight between April 10 and April 28 at Barry J Nidorf. Understandably, the staff who continue to show up for shifts are exhausted and exasperated.

During our walkthrough of the Barry J Nidorf Juvenile Hall, we reviewed documentation on each unit that outlined staff were not available for 1:1 supervision as required by policy. When we asked unit staff how they managed the unit in these situations, they indicated that they are required to regularly staff and program the unit and attempt to provide 1:1 supervision. The youth we spoke with on these units indicated that they were not regularly getting programs or time outside. Youth were typically observed gathered around televisions watching YouTube content at high volume during our walkthrough. We also observed many interior observation windows in the Compound (both in pre-disposition units and SYTF units) replaced with plywood. While we did observe two groups of Hill Unit pre-disposition youth getting outside, the pre-disposition youth we spoke with in the Hill Units reported that they are getting outside more; however, programs are not regularly occurring.

Los Angeles County Office of Education representatives provided BSCC staff with a daily report for attendance at each facility for the week of April 24 through April 28, 2023. Documentation for Barry J Nidorf that most of the youth were not brought to school either late or not at all because "probation failed to bring students . . . due to staff shortage."

Discussion with youth indicated that school attendance improved during the week of our site visit.

Documentation at Central Juvenile Hall indicates that while youth are regularly getting to school more often, “due to limited staffing . . . classes began late.” Title 15 and California State Education Code both require that youth receive a minimum 240-minute school day.

Youth reported a continued lack of programs, and we observed one outside staff member in the SYTF providing a program to two SYTF youth. We did not observe any other programs in progress during our walkthroughs. It was also reported that there is no IT equipment available for secondary education and Wi-Fi is not operational throughout the units. Youth report that visits are often cancelled due to lack of staff and youth continue to report that they do not always get out of their rooms at night when they need to use the restroom and will urinate in a receptacle if they must use the restroom.

The CAP and SCAP indicated that additional program providers will be contracted, and statements of work are being submitted and solicitations are being made. We were not provided with documentation that reflects this action and facility staff are not aware of any new programming that has been implemented into the facility since the BSCC inspection. It appears the actions outlined in the plan have not been implemented.

Other Items of Noncompliance Related to Staffing

We also observed the following:

- We reviewed safety check documentation to determine if youth are being placed on room confinement; our review of documentation at Barry J Nidorf indicates that pre-disposition units are being held in their rooms in excess of the time allotted for institutional operations during shift change (one hour). (§ 1354.5.)
- Documentation reviewed at Central Juvenile Hall indicates that youth are not being held in their rooms in excess of the time allotted for shift change. We did, however, observe several youth being held in their rooms in Units P and Q (intake units) for several days after they had been medically cleared to returned to housing units. BSCC staff was not provided documentation for compliant use of room confinement and were told that staffing had impacted the ability to place the youth elsewhere. There was also no documentation to show that the youth locked in their rooms received education, recreation, exercise or programming. (§ 1354.5.)
- We reviewed documentation for searches at each facility; it appears as though additional Special Enforcement Operations (SEO) staff have been deployed to the facility to assist, as per the CAP. However, our review of documentation indicates that regular facility searches, as required by regulation and policy, have not occurred due to lack of staffing. (§ 1360.)
- A review of programming and exercise documentation at Barry J Nidorf indicates that youth are not getting outdoors for exercise due to lack of staff. (§ 1371.)

- A review of programming documentation at Central shows that programs do occur; however, there are several shifts/units without programming, full units refusing participation, and programs that are being offered are basic and mundane and not relevant to the population served as indicated in regulation. We observed some staff trying to provide activities for the youth using the limited staffing at the facility. However, exercise is also routinely being moved indoors due to staffing; youth are not regularly going outside to get fresh air. (§ 1371.)

In short, discussions with facility staff and youth, and a review of documentation continue to indicate noncompliance with Section 1321, Staffing, Section 1358.5, Room Confinement, searches, Section 1360, Searches, Section 1370, Education, and Section 1371, Programs Recreation and Exercise. While there have been attempts to fulfill some steps outlined in the CAP/SCAP, there is no measurable progress toward compliance being observed.

Section 1328, Safety Checks

The Department's CAP included the installation of an electronic safety check system at both juvenile halls; this action has been taken and we were able to observe the equipment in both facilities. However, the corrective action outlined for meeting compliance with the regulation is not occurring in practice. The CAP/SCAP noted that Unit Supervisors would regularly audit safety checks and provide immediate correction and training to facility staff when safety checks are late. In practice, the facility staff who are assigned to the BSCC Compliance Unit at each facility have been directed to audit the safety checks a minimum of three (3) times a week. We requested documentation of these audits and were told that this review is not regularly occurring due to staff being pulled from their assigned duties to work other assignments due to lack of staffing. While the Department has an electronic system in place, there is currently no regular review of safety check documentation at the facilities to ensure that staff complete safety checks a minimum of every 15 minutes per regulation.

We reviewed available safety check documentation at both juvenile halls. At Barry J Nidorf Juvenile Hall, all but three units had late checks occurring; in some units, the time lapse between checks was excessive, in one case up to three hours late. Facility staff informed BSCC staff that these will be addressed with corrective action notice or progressive discipline.

At Central Juvenile Hall, there appears to be improvement toward meeting compliance with the regulation. However, there continue to be units where safety checks are late, sometimes up to 41 minutes.

While the electronic safety check system is one step in the plan toward meeting compliance with Section 1321, noncompliance with this section is still evident at both facilities.

Section 1357, Use of Force

Discussion with facility leadership indicates that staff have still not been trained in the required areas outlined in the updated policy on the use of force.

The CAP and SCAP indicate that the Department implemented a plan developed on March 5, 2023, to "address processes specific to the use of force reviews" in collaboration with the

California Department of Justice. Communication with Department staff indicates that this plan includes reviewing past use of force incidents to gather necessary documentation to complete missing information. While this review may bolster efforts towards future compliance, this review does not address compliance with future use of force and how documentation will be completed during use of force incidents.

Section 1358.5, Use of Restraint Devices for Movement and Transportation Within the Facility (Central Juvenile Hall only)

BSCC staff were able to review a sampling of reports to determine whether facility staff are documenting individual assessments for the need to apply restraints for movement and restraints and documentation of supervisor review and approval. We noted progress toward compliance in this section.

Section 1390, Discipline

Both the CAP and SCAP indicated that a revised Behavioral Management Program (BMP) manual would be approved by the California Department of Justice team during the week of April 6, 2023. We do not have documentation of a revised BMP policy being implemented; attached to the SCAP was an outdated BMP policy that is not being implemented and is noncompliant with this section.

CORRECTED ITEMS

Section 1327, Emergency Procedures. (Barry J Nidorf)

We reviewed documentation of staff sign-off of annual review of procedures.

Section 1374, Visiting (Central).

We observed the child-friendly visiting room that was put in use following the inspection.

Summary

The Board deferred action on the determination of suitability at the April board meeting to have staff assess whether the corrective action plan and supplemental corrective action plans were implementable and to verify whether the county had, in fact, taken the steps described in the plan towards implementation. While some aspects of some parts of the plan have been implemented, no significant items of noncompliance have been corrected. Staffing remains at deficient levels and there is no indication that the remaining aspects of the plan could be timely implemented so that the facilities would come into compliance by June 12, 2023.

Recommendation/Action Needed

Based on the foregoing, staff recommends that the Board:

1. Find that both the corrective action plan and supplemental corrective plan submitted by the County of Los Angeles cannot be approved because they do not adequately demonstrate that the items of noncompliance will be corrected in a reasonable period of time and no later than June 12, 2023.

2. Find that because the county has failed to file an approved corrective action plan within 60 days following the issuance of the January 13, 2023 initial inspection report that Central Juvenile Hall and Barry J. Nidorf are unsuitable within the meaning of Welfare and Institutions Code section 209, subdivision (a)(4) and (d).
3. Find that even if the county had filed an approved corrective action plan, that the county has failed to meet its commitment to resolve the items of noncompliance within the meaning of Welfare and Institutions Code section 209, subdivision (d).
4. a) Find that the following items remain out of compliance with Title 15, California Code of Regulations:

i. Barry J. Nidorf Juvenile Hall

1. § 1321. Staffing.
2. § 1325. Fire Safety Plan.
3. § 1328. Safety Checks.
4. § 1354.5. Room Confinement.
5. § 1357. Use of Force.
6. § 1360. Searches.
7. § 1370. Education Program.
8. § 1371. Programs, Recreation, and Exercise.
9. § 1390. Discipline.

ii. Central Juvenile Hall

1. § 1321. Staffing.
2. § 1328. Safety Checks.
3. § 1354.5. Room Confinement.
4. § 1357. Use of Force.
5. § 1358.5. Use of Restraint Devices for Movement and Transportation Within the Facility.
6. § 1360. Searches.
7. § 1370. Education Program.
8. § 1371. Programs, Recreation, and Exercise.
9. § 1390. Discipline.

- b) Find that due to the items of noncompliance set forth in recommendation 4(a)(i) and 4(a)(ii) that both Barry J. Nidorf and Central Juvenile Hall are unsuitable within the meaning of Welfare and Institutions Code section 209, subdivision (a)(4).
5. Direct staff to provide electronic notice no later than close of business on May 24, 2023 to all persons within the county having authority over placement of youth in the juvenile halls that both facilities shall not be used for the confinement of youth commencing 60-days after issuance of the notice.

Attachments

A-1: April 3, 2023 – LA County Probation Department Supplemental Corrective Action Plan

A-2: March 27, 2023 – Notice Letter to Interim Chief Fletcher

A-3: March 23, 2023 – BSCC Response Letter to LA County Probation Department
Corrective Action Plan

A-4: March 14, 2023 – County of Los Angeles Probation Department Corrective Action Plan

A-5: 2020-2022 Biennial Inspection Report of Los Angeles County Probation Department's
Juvenile Detention Facilities